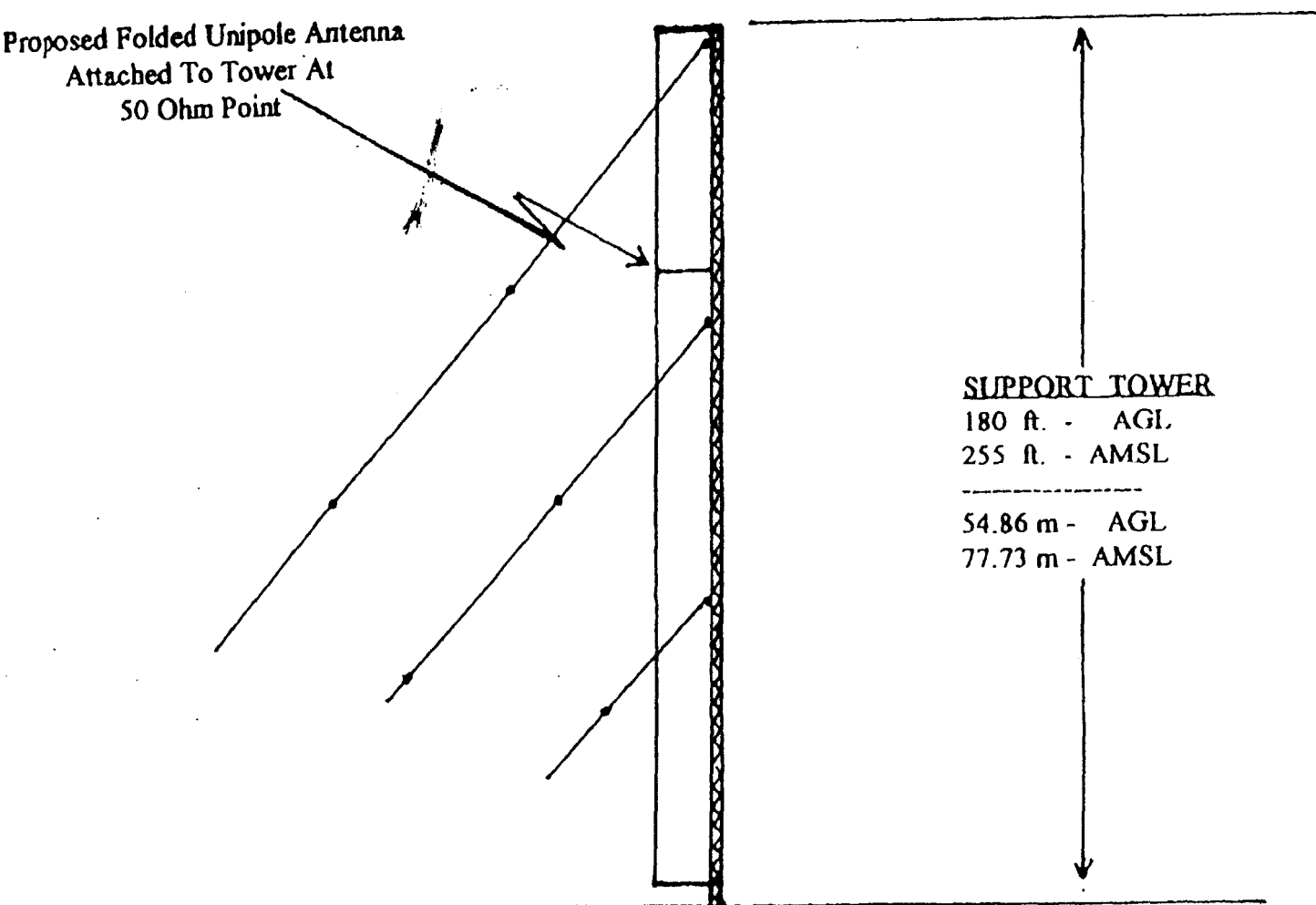


## VERTICAL PLAN SKETCH

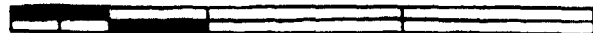
Proposed Folded Unipole Antenna  
Attached To Tower At  
50 Ohm Point



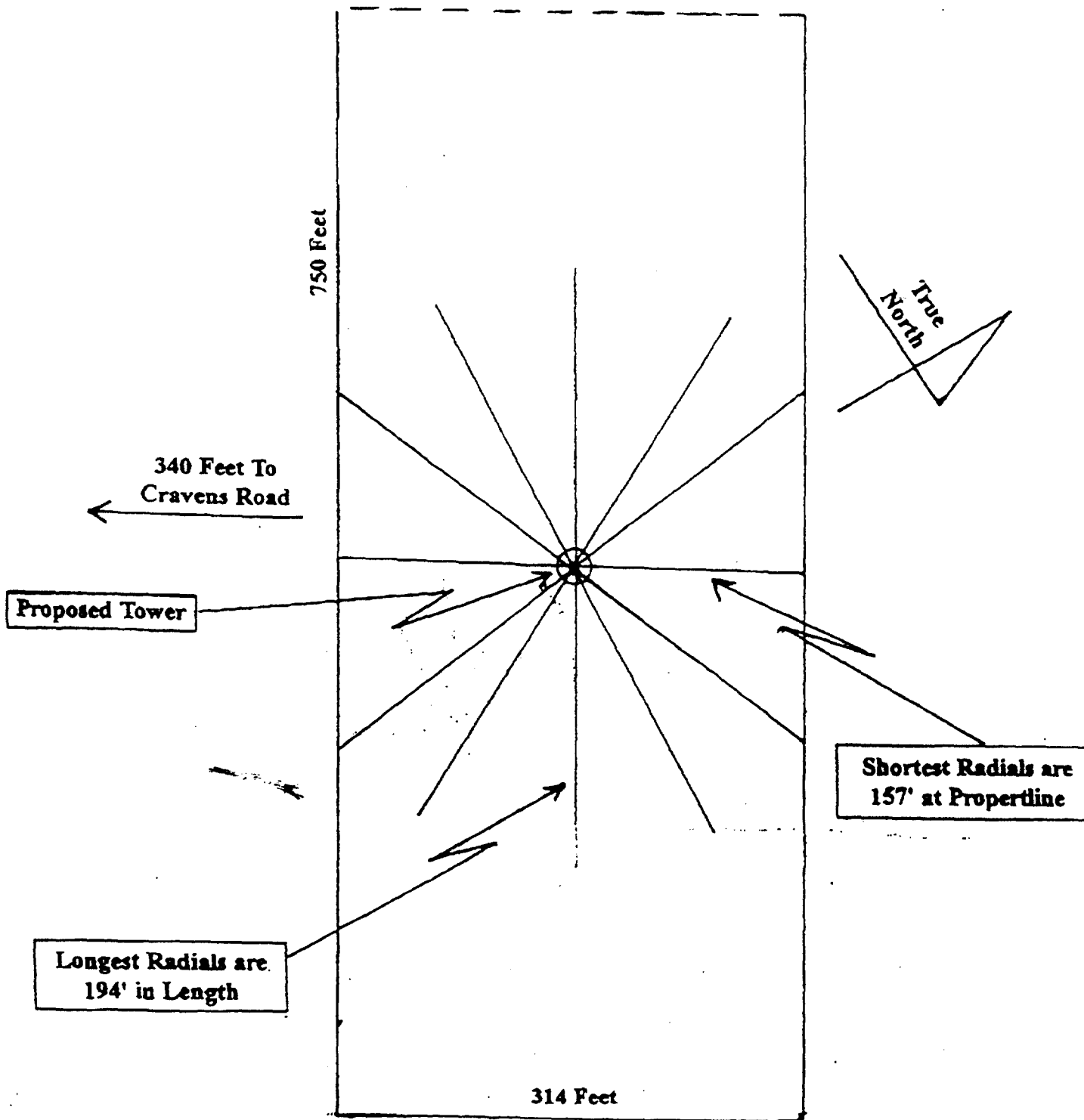

Proposed Site = 75 Ft. (22.86 meters) Above Mean Sea Level

**Chameleon Radio Corporation**  
**Licensee, Radio Station KIOX**  
**Bay City, Texas**  
**1270 kHz, 1 kw, U, DA-N**  
**Exhibit: E - 2, Page: 1**

Scale: 1" - 100 Feet



Additional 500 feet to  
Riceville Road



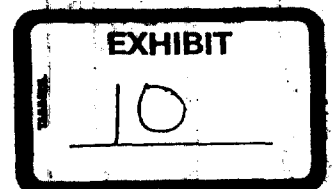
Chameleon Radio Corporation  
Licensee, Radio Station KIOX  
Bay City, Texas

2

**STATEMENT OF DON WERLINGER  
UNDER 28 U.S.C. Section 1746**

I, Don Werlinger am over the age of eighteen, of sound mind and do state upon my oath as follows.

1. I am the President of Chameleon Radio Corporation, licensee of AM Radio station KFCC (formerly KIOX AM), Bay City TX.
2. On or about January 5, 1995, I entered into negotiations with Landrum Enterprises, Inc., licensee of KIOX AM & FM to purchase KIOX-AM. Landrum wanted to sell the AM station but still wished to retain use of the transmitter sit for its own FM operation. As part of the necessary terms of the sale Chamelion, therefore, agreed to purchase the assets of the AM station including the assumptin of the land lease used for the transmitter site but, simultaneously, to lease the transmitter site back to Landrum Enterprises.
3. Chameleon, therefore, did not have use of the transmitter site. In addition, I intended, in any event, to apply for a permanent change of my city of license. For these reasons, I applied for a Special Temporary Authorization (STA) which was granted by the FCC. The opportunity to use the original transmitter site was not afforded Chameleon.
4. Part of Chameleon's application for the STA states that it had lost its transmitter site. That statement was true and there was no intention on my part to evade or misrepresent any facts to the FCC. The site loss was involuntary.
5. Chameleon Radio has developed its program format to serve the various ethnic minorities in the southeastern part of Texas. The groups with programming on the station (through time brokerage arrangements with various ethnic programming sources) include Greek, Indian, Pakistani, Nigerian, Philippine, Iranian, Argentinean, Russian, Vietnamese, Peruvian, Cuban, Hindu, Islamic, Rumanian, and Sri Lanka.
6. KFCC provides an important public service in that it is the only radio outlet to serve these ethnic and foreign language listeners in the south-eastern part of Texas.



**Federal Communications Commission**

**Docket No.** 96-173 **Exhibit No.** 7

**Presented by** MMB

**Identified** X

**Disposition** **Received** X

**Rejected**

**Reporter** Y8

**Date** 2-24-97

**AFFIDAVIT OF DON WERLINGER**

October 5, 1995

Page 2

7. On August 4, 1995, Chameleon tendered an application before the Federal Communications Commission seeking to make the STA site in Harris County the permanently licensed KFCC site. That application was subsequently given a favorable preliminary review and accepted for filing by the Commission's staff. The application was given a public notice cutoff date of October 6, 1995.
8. Approximately ninety percent of the ethnic listeners served by KFCC at its present location will no longer be able to receive a usable signal should KFCC return to its Bay City location. The remaining ten percent of its present business would not be sufficient for Chameleon to remain on the air and it would be financially ruined.
9. Objections to Chameleon's STA application were filed with the FCC by Salem Radio and by KWHI. Salem Radio has since withdrawn all of its objections. Although KWHI has not formally withdrawn its objection, it has given me verbal assurances it will not oppose Chameleon's application for permanent change of city of license--a change that would produce signal propagation similar to that produced by operations under the present STA while affording additional protection to KWHI. Additionally, irrespective of the KWHI complaint regarding the KFCC STA site, the 300 watt operation of KFCC dramatically reduces previously licensed overlap between the two radio stations.
10. The original power authorized under the STA was 1,000 watts day and 100 watts at night. At that power, a usable signal was available to all of the listeners in Bay City, KFCC's city of license.
11. Because of the objections from Salem Broadcasting and KWHI, the FCC ordered a reduction of power to 300 watts daytime and 50 watts at night.

**AFFIDAVIT OF DON WERLINGER**


October 5, 1995

Page 3

12. Chameleon complied with the ordered power reduction but because of the lower power, the signal over Bay City became, as a practical matter, unusable.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

October 5, 1995

  
Don Werlinger, President  
Chameleon Radio Corporation





FCC MAIL SECTION

MAY 11 8 55 AM '95 FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

May 5, 1995

DISPATCHED BY

IN REPLY REFER TO:  
8910-JAV  
STOP CODE 1800B2

Chameleon Radio Corporation  
10865 Rockley Road  
Houston, TX 77099

Re: Radio Station KIOX-AM  
Bay City, TX

This is in reference to licensee letter dated 4/21/95. Effective 5/5/95. Temporary authority granted to relocate the station .25 Km from presently authorized site to the geographic coordinates NL: 29° 38' 10" WL: 95° 32' 32" due to loss of authorized site. Operating power will be 1,000 watts during daytime hours and 100 watts during nighttime hours utilizing a nondirectional mode on a frequency of 1270 kHz. The type antenna to be used is a self-support, series excited, folded unipole 54.86 m (180') tower producing an inverse distance field of 323.5 mv/m/kW. This tower is one of the three existing towers array. You are cautioned that proceeding with this authority and any construction incident there to are undertaken entirely at your own risk and that this authority does not in any way prejudice what ever action may be taken with regard to your construction permit when filed. This authority is granted in consideration of your good faith and representation that you will submit a completed and acceptable FCC Form 301 prior to expiration of this authority. Reduce power further if interference complaints are received. Your obligation to notify regional F.A.A. of the proposed tower of any possible lighting or marking requirements which are governed by Part 17 of the F.C.C. Rules with which you must comply as a precondition to use this authority. This authority expires 8/1/95.

James R. Burtle  
Chief, AM Branch  
Audio Services Division  
Mass Media Bureau

John Vu  
Engineer

EIC- Houston

739

Federal Communications Commission							
Docket No.	96-173 Exhibit No. 8						
Presented by	MMB						
Disposition	<table border="0"><tr><td>Identified</td><td>X</td></tr><tr><td>Received</td><td>X</td></tr><tr><td>Rejected</td><td></td></tr></table>	Identified	X	Received	X	Rejected	
Identified	X						
Received	X						
Rejected							
Reporter	918						
Date	2-24-97						

1

9

FCC MAIL SECTION

MAY 16 3 14 PM '95 FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

May 12, 1995

DISPATCHED BY

IN REPLY REFER TO:  
8910-JAV  
STOP CODE 1800B2

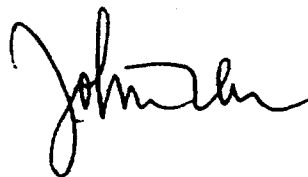
Chameleon Radio Corporation  
10865 Rockley Road  
Houston, TX 77099

Re: Radio Station KIOX-AM  
Bay City, TX

This supersedes STA letter dated 5/5/95 to correct transmitter location and power of operation. This is in reference to licensee letter dated 4/21/95. Effective 5/5/95. Temporary authority granted to relocate the station from presently authorized site to the geographic coordinates NL: 29° 38' 14" WL: 95° 32' 24" due to loss of authorized site. Operating power will be 300 watts during daytime hours and 50 watts during nighttime hours utilizing a nondirectional mode on a frequency of 1270 kHz. The type antenna to be used is a self-support, series excited, folded unipole 54.86 m (180') tower producing an inverse distance field of 323.5 mv/m/kW. This tower is one of the three existing towers array. You are cautioned that proceeding with this authority and any construction incident there to are undertaken entirely at your own risk and that this authority does not in any way prejudice what ever action may be taken with regard to your construction permit when filed. This authority is granted in consideration of your good faith and representation that you will submit a completed and acceptable FCC Form 301 prior to expiration of this authority. Reduce power further if interference complaints are received. Your obligation to notify regional F.A.A. of the proposed tower of any possible lighting or marking requirements which are governed by Part 17 of the F.C.C. Rules with which you must comply as a precondition to use this authority. This authority expires 8/1/95.

James R. Burtle  
Chief, AM Branch  
Audio Services Division  
Mass Media Bureau

EIC- Houston



John Vu  
Engineer

Federal Communications Commission	
Docket No. <u>96-173</u>	Exhibit No. <u>9</u>
Presented by <u>MMB</u>	
Disposition	Identified <u>X</u>
	Received <u>X</u>
	Rejected <u>      </u>
Reporter <u>JS</u>	
Date <u>2-24-97</u>	

10

201  
FCC MAIL SECTION

MAY 19 12 54 PM '95

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

May 18, 1995

DISPATCHED BY

IN REPLY REFER TO:

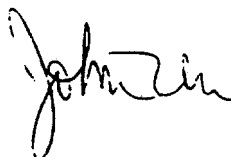
8910-JAV

STOP CODE 1800B2

Chamelon Radio Corporation  
10865 Rockley Road  
Houston, Tx 77099

Re: Radio Station KIOX-AM  
Bay City, TX

This refers to your above-captioned Special Temporary Authority (STA) which was granted on May 5, 1995. Effective 5/18/95. The STA was granted to allow KIOX-AM continuing to serve the public. However, further study of your STA request reveals that KIOX-AM does not cover its city of license, Bay City, TX from the proposed transmitter site in contravention of Section 73.24(i) of the rules. Therefore, the grant of your STA is **HERE BY RESCINDED**, and the licensee should return to its licensed site. Alternatively, if necessary, KIOX-AM should request an STA to remain silence until its finds a new site which covers Bay City.



James R. Burtle  
Chief, AM Branch  
Audio Services Division  
Mass Media Bureau

John Vu  
Engineer

EIC- Houston

Federal Communications Commission	
Docket No.	96-173 Exhibit No. 10
Presented by	MMB
Disposition	Identified X
	Received X
	Rejected
Reporter	48
7-70-97	



U.S. Department of Transportation  
Federal Aviation AdministrationNotice of Proposed  
Construction or Alteration

Aeronautical Study Number

## 1. Nature of Proposal

## A. Type

- ☒
- New Construction
- 
- ☐
- Alteration \*

## B. Class

- ☒
- Permanent
- 
- ☐
- Temporary (Duration \_\_\_\_\_ months)

## C. Work Schedule Dates

Beginning PendingEnd ECC Approval

If alteration, provide previous FAA Aeronautical Study Number, if available.

Name, address, and telephone number of individual, company corporation, etc. proposing the construction or alteration. (Number, Street, City, State, and Zip Code)

Don Werlinger, President  
Chameleon Radio Corporation  
10865 Rockley Road  
Houston, Texas 77099

(Area Code)

Telephone Number

3B. Name, address and telephone number of proponent's representative, if different than 3A. above.

Same As Above

(713) 564-1070 Fax: 713-564-8653  
Area Code Telephone Number

## 2. Complete Description of Structure

Please describe, on a separate sheet of paper if necessary, the proposed construction or alteration.

- A. For proposals involving transmitting stations, include effective radiated power (ERP) and assigned frequency of all proposed or modified transmitters on the structure. (If not known, give frequency band and maximum ERP).
- B. For proposals involving overhead wire, transmission lines, etc., include the size and the configuration of the wires and their supporting structures.
- C. For all proposals, include site orientation, dimensions, and construction materials of the proposed or altered structure.
- D. **Optional**— Describe the type of obstruction marking and lighting system desired for your structure. The FAA will recommend appropriate marking and lighting for the structure in accordance with the standards of Advisory Circular AC 70/7460-1. An FAA marking and lighting recommendation will reflect the minimum acceptable level of conspicuity necessary to warn pilots of the presence of an object. However, the FAA, under certain circumstances, will not object to the use of a system (such as a medium intensity flashing white light system or a dual lighting system) other than the recommended standard.

## Location Of Structure

## A. Coordinates (to hundredths of seconds, if known)

Latitude 01 29 38 10 "  
Longitude 01 95 32 22 "

## 4D. Source of coordinate information for item 4A. above.

- ☒
- USGS 7.5' Quad Chart
- ☐
- Survey
- ☐
- Other Specify

State the reference datum of the coordinates, if known.

- ☒
- NAD 27
- ☐
- NAD 83
- ☐
- Other Specify

## B. Nearest City or Town and State

Stafford, Tx

## (1). Distance to 4B

500 feet

## (2). Direction to 4B

270° True

## C. Nearest public or military airport, heliport, flightpark, or seaplane base

Andreau, Houston

## (1). Distance from structure to nearest point of nearest runway

9.6 mi (15.45 km)

## (2). Direction from structure to airport

351° True

4E. Describe, on a separate sheet of paper, the location of the site with respect to highways, streets, airports, prominent terrain features, existing structures, etc. Attach a copy of a U.S. Geological Survey quadrangle map 7.5 minute series (or equivalent) showing the construction site. If available, attach a copy of a documented site survey with the surveyor's certification.

## 5. Height and Elevation (to nearest foot)

## A. Elevation of site above mean sea level.

75

## B. Height of structure including all appurtenances and lighting above ground or water.

180

## C. Overall height above mean sea level (A + B)

255

## FAILURE TO PROVIDE ALL REQUESTED INFORMATION MAY DELAY PROCESSING OF YOUR NOTICE

Notice is required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77) pursuant to Section 1101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. § 1501). Persons who knowingly and willfully violate the Notice requirements of Part 77 are subject to a civil penalty of \$1,000 per day until the notice is received, pursuant to Section 901(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. § 1471(a)) as well as the fine (criminal penalty) of not more than \$500 for the first offense and not more than \$2,000 for subsequent offenses, pursuant to Section a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. § 1472(a)).

I HEREBY CERTIFY that all of the above statements made by me are true, complete, and correct to the best of my knowledge. In addition, I agree to obstruction mark and/or light the structure in accordance with established marking &amp; lighting standards as necessary.

Date

3-28-95

Typed or Printed Name and Title of Person Filing Notice

Don Werlinger

Signature

## FOR FAA USE ONLY

FAA will either return this form or issue a separate acknowledgement.

Chameleon Radio Corporation  
Licensee, Radio Station KIOX  
Bay City, Texas  
1270 kHz, 1 kw, U, DA-N  
Exhibit: E - 6, Page: 1

Supplemental Notice of Construction, FAA Form 7460-2, is required any time the project is abandoned, or

- ☐
- At least 48 hours before the start of construction.
- 
- ☐
- Within five days after the construction reaches its greatest height.

This determination expires on \_\_\_\_\_ unless

(a) extended, revised or terminated by the issuing office.

(b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit is made to the FCC on or before the above expiration date. In such cases, the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application.

NOTE: Request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date.

If the structure is subject to the licensing authority of the FCC, a copy of this determination will be sent to that agency.

Advisory Circular 70/7460-1, Chapters

- ☐
- Obstruction marking and lighting are not necessary.

Remarks

83 Coordinates (Use these coordinates for any future correspondence with the FAA)

Latitude

Longitude

Issued in

Signature

Date

Federal Communications Commission

cket No. 96-173 Exhibit No. 11

resented by UMB

Disposition } Identified X  
                  } Received X  
                  } Rejected \_\_\_\_\_

Reporter gs

ite 2-24-97







U.S. Department  
of Transportation

Federal Aviation  
Administration

IN REPLY REFER TO  
**AERONAUTICAL STUDY**  
**NO. 95-ASW-0940-OE**

**CORRECTED**

**ACKNOWLEDGMENT OF NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION**

<b>SPONSOR</b>	<b>CHAMELEON RADIO CORPORATION</b> <b>ATTN DON WERLINGER</b> <b>10865 ROCKLEY ROAD</b> <b>HOUSTON TX 77099</b>	<b>CONSTRUCTION LOCATION</b>	
		<b>PLACE NAME</b> <b>STAFFORD, TX</b>	
		<b>LATITUDE</b> <b>29°38'10.84"</b>	<b>LONGITUDE (NAD83)</b> <b>95°32'22.80"</b>
<b>CONSTRUCTION PROPOSED</b>	<b>DESCRIPTION * FOUR TOWER DIRECTIONAL ARRAY *</b>  <b>(1270 KHZ @ 2,500 WATTS ERP)</b>	<b>HEIGHT (IN FEET)</b>	
		<b>ABOVE GROUND</b> <b>180</b>	<b>ABOVE MSL</b> <b>255</b>

The Federal Aviation Administration hereby acknowledges receipt of notice dated **July 31, 1995** concerning the proposed construction or alteration described above.

A study has been conducted under the provisions of Part 77 of the Federal Aviation Regulations to determine whether the proposed construction would be an obstruction to air navigation, whether it should be marked and lighted to enhance safety in air navigation, and whether supplemental notice of start and completion of construction is required to permit timely charting and notification to airmen. The findings of that study are as follows.

- ☐ The proposed construction does not require notice to FAA.
- ☒ The proposed construction is not identified as an obstruction under the standards of FAR, Part 77, Subpart C and would not be a hazard to air navigation.
- ☐ The proposed construction is identified as an obstruction under the standards of FAR, Part 77, Subpart C but would not be a hazard to air navigation.
  - ☐ The structure should be obstruction marked and lighted per FAA Advisory Circular AC 70/7460-1, "Obstruction Marking and Lighting," Chapters **NOT REQUIRED**.
  - ☐ Supplemental notice is required at least 48 hours before the start of construction and within five days after construction reaches its greatest height (use the enclosed FAA form).

This determination expires on **November 30, 1995** unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission and an application for a construction permit is made to the FCC on or before the above expiration date. In such case the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application.

**NOTE:** Any request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date.

- ☐ The proposed construction would exceed Part 77 obstruction standards and further aeronautical study is necessary to determine whether it would be a hazard to air navigation. Pending completion of any further study, it is presumed the construction would be a hazard to air navigation. Further study:
  - ☐ Has been initiated by the FAA.
  - ☐ May be requested by the sponsor within 30 days of the date of this acknowledgment.
- ☐ If the proposed structure were reduced in height to not exceed \_\_\_\_\_ ft. above ground level ( \_\_\_\_\_ ft. above sea level), it would not exceed Part 77 obstruction standards.

If the structure is subject to the licensing authority of the FCC, a copy of this acknowledgment will be sent to that Agency.

**NOTICE IS REQUIRED ANYTIME THE PROJECT IS ABANDONED OR THE PROPOSAL IS MODIFIED.**

**VOIDS 05/15/95 DETERMINATION**

*Bruce C Beard*  
**SIGNED BRUCE C BEARD**

**TITLE Airspace Specialist**

**ISSUED IN FORT WORTH, TEXAS**

**ON October 16, 1995**

**FAA FORM 7460-7 (4-83) SUPERSEDES PREVIOUS EDITION**

Federal Communications Commission  
ocket No. 96-173 Exhibit No. 12  
resented by UMB  
Disposition } Identified X  
                  } Received X  
                  } Rejected \_\_\_\_\_  
eporter GS  
ite 2-24-97



## Narrative On KENR/KFCC Operations Under KENR Management Company, Inc. and Chameleon Radio Corporation

### Exhibit: 1

On April 1, 1994, KENR Management Company, Inc. entered into a five year Time Brokerage Agreement with Susquehanna Radio Corp. to provide 24 hour a day programming on Susquehanna's KENR AM (1070 kHz, 10 kw - Day, 5 kw - Night) in Houston. The station had been simulcasting with Susquehanna's KRBE FM (104.1 MHz, 100 kw) for almost all of the nine years Susquehanna had owned the station. Under such arrangements (commonly referred to in the industry as LMA's), the licensee pays a set fee each month for all the airtime on the radio station and then has the right to program and market time as it sees fit. Although a five year contract is common, Federal Communications Commission Rules regarding retention of licensee control require that the licensee retain an option to terminate the contract for any reason within not more than 90 days notice. The LMA between KENR Management Company and Susquehanna contained such language.

After studying the market, KENR Management discovered there was virtually no radio outlet for the international community in Houston. African American and Hispanic groups which represent the largest segment of minorities in Houston had numerous outlets, but more than two dozen Russian, Asian, African, European, and South and Central American communities were totally unserved by commercial radio. As a result of its study, KENR Management began its programming by offering blocks of airtime to all ethnic groups in the community as well as groups with opinions which did not routinely have an outlet in the community.

Within six months, KENR Management had attracted more than forty programmers representing eleven different languages from five different continents. The groups with programming on the radio station (through KENR Management's Time Brokerage Agreement) included:

Greek	Indian	Pakistani	Nigerian
Philippine	Iranian	Argentinean	Russian
Vietnamese	Peruvian	Cuban	Hindu
Islamic	Romanian	Sri Lankan	

In addition, a number of other English speaking programs were on the air including programs on nutrition and alternative health which had never been represented in the market. Through KENR Management Company's programming, 1070 AM became the only commercial broadcast outlet for the international community in one of the nation's ten largest metropolitan areas. However, in November 1, 1994, Susquehanna Radio reached an agreement to sell KENR to Salem Broadcasting, Inc., one of the nation's largest operators of Christian formatted radio stations. Susquehanna Radio gave KENR Management Company, Inc. a formal 90 day notice that as of February 6, 1995 (which was later extended to March 3, 1995), its Time Brokerage Agreement with KENR Management would be terminated (Note: At the same time, Salem agreed to purchase Houston FM KKZR (106.9 MHz) from US Radio giving Salem an AM and FM in the market).

The announcement of the sale of KENR came as a complete shock to KENR Management Company. It had entered into a five year LMA with Susquehanna. Irrespective of the ninety day cancellation clause mandated by FCC rules, Susquehanna gave KENR Management assurances that no sale of the station was anticipated. In fact, Susquehanna entered into the LMA only after spending several months soliciting bids for the station and having received none it wished to accept, decided to enter the time brokerage agreement. The principals of KENR Management Company invested virtually all of their assets into the Houston venture and would never have done so for a six month deal.

Nevertheless, when word of the sale was received (the evening before it was announced in Houston newspapers, incidentally), KENR Management immediately began taking steps to secure its future and those of its programmers. It began seeking another broadcast outlet and entered into negotiations with Salem Broadcasting regarding a limited extension of its original Susquehanna

Federal Communications Commission

Docket No. 96-173 Exhibit No. 13

Presented by MMB

Disposition	{	Identified	<u>X</u>
		Received	<u>X</u>
		Rejected	<u>      </u>

Reporter YS

Date 2-24-97

agreement. KENR Management received repeated assurances from Salem that as the new licensee of KENR, Salem was interested in continuing a time brokerage agreement with KENR Management. Through its manager in Houston, Salem indicated that it would need time to place its talk religious format on KKZR (now KKHT FM) and would be happy to enter into a time brokerage agreement on the AM for a limited period of time thus allowing Salem to concentrate on programming its FM.

Salem and Susquehanna consummated their transaction on March 3, 1995 (Note: Salem also consummated the purchase of KKZR FM from US Radio the same day). On March 6, 1995, Salem (doing business in Houston as South Texas Broadcasting, Inc.) entered into a one year Time Brokerage Agreement with KENR Management Company, Inc. The Time Brokerage Agreement was almost identical to the one KENR Management had with Susquehanna with three exceptions:

1. A one year term instead of the original five year term with Susquehanna; 2. The fact that either party could exit the contract on 30 days notice to the other without penalty; and 3. The rates KENR Management was to pay each month (\$20,000.00 a month vs. \$15,000.00 a month in the Susquehanna contract).

However, prior to entering the one year LMA with Salem, a series of meetings occurred between KENR Management and Salem representatives. At one such meeting in December 1994, Salem indicated through its Houston Manager (Jamie Clark) it might be interested in purchasing KENR Management's contracts with its programmers, but the negotiations ended when Salem's manager reviewed KENR's list of programmers and indicated that Salem would be placing mostly Christian programming on the AM when they consummated their purchase of the station and would not have a place for the vast majority of KENR Management's programmers.

On several occasions during these discussions and later, Mr. Clark suggested that Mr. Werlinger's best option would be to abandon hope of finding another station and instead, to work for Salem as an independent contractor receiving a monthly "stipend" and a commission for bringing all his programmers to Salem. Each time the offer was made, Mr. Werlinger politely declined and assured Mr. Clark that he would find another station.

After a thorough engineering search, KENR Management discovered that KIOX AM (1270 kHz, 1,000 watts Day/Night) in Bay City, Texas was both available for purchase and that the station would technically fit the FCC's criteria for a transmitter site near Houston. KIOX was a sister station to KIOX FM (96.9 MHz, 100,000 watts) licensed to El Campo, Texas and spent all its time either simulcasting with the FM or airing the audio portion of CNN Headline News. Following negotiations through a local media broker, the principals of KENR Management Company, Inc. formed Chameleon Radio Corporation in February, 1995 and entered into a contract to purchase KIOX AM. Chameleon was co-owner with its contract with Salem through February, 1996, it would have time to make the changes necessary in KIOX to move its transmitter site to Houston. The application to purchase KIOX was filed with the FCC on February 16, 1995 and approved on April 20, 1995. The purchase was consummated on April 22, 1995.

As previously mentioned, Salem commenced its ownership of KENR on March 3, 1995 and entered its one year agreement with KENR Management Company on March 6. For the period of time, KENR, nothing had changed. Between the first week in March and the first week in April, KENR Management had virtually no contact with Salem.

KENR Management's relationship with Salem began very cordially and remained so through March and into April, 1995. On Thursday, April 5, 1995, KENR Management Company President Don Werlinger met Salem's general manager Jamie Clark at Salem's Houston office. The discussion centered on Salem's recently acquired FM and on KENR Management's outlook for the future. Mr. Clark indicated that as far as he was concerned, his hands were full with programming KKHT and that KENR Management had plenty of time to secure a new frequency for its programmers. Mr. Werlinger informed Mr. Clark that his company anticipated the consummation of the purchase of KIOX 1270 AM before the end of April and that his company would be making moves to relocate the KIOX transmitter site with a hoped for completion of the project by the end of the summer. Although Mr. Werlinger had repeatedly told Salem he would be moving to another station, Mr. Clark seemed surprised by Mr. Werlinger's information. Just the same, Mr. Clark indicated that the timeline for such a move would be consistent with Salem's plans.

On Friday, April 6, 1995 Mr. Clark wrote (and Mr. Werlinger received on Monday, April 9, 1995 by first class mail) a one sentence termination notice. The notice stated Salem would terminate its one year contract with KENR Management as of midnight, May 6, 1995. The termination letter did not meet terms prescribed in the Time Brokerage Agreement because it was not signed by an officer of the corporation nor was it delivered in the prescribed manner (that being either hand delivered or Federal Express). KENR Management viewed the letter as Salem's intent to terminate by certified mail, but not as a formal notice per terms of their agreement. KENR Management decided to wait for further communication from Salem before responding to the letter.

The letter was a complete reversal from Mr. Clark's conversation with Mr. Werlinger on April 5th. The only conclusion Mr. Werlinger could draw was that Salem was attempting to put a termination in place before he could construct a new transmitter site for KIOX, thus leaving Werlinger's programmers with no place to be on the air except with Salem. In this way, Salem could cherry pick Werlinger's programmers without compensating him.

Fearing this worst case scenario, KENR Management's sister company Chameleon Radio Corporation intensified its efforts to make a move to KIOX. It secured a transmitter site for the station in rural Harris County near the Fort Bend County line and began engineering the transmitter site. Immediately upon closing the purchase of KIOX on April 20th, Chameleon sought from the FCC authority to relocate a 1,000 watt non-directional antenna at the new location. That authority was granted by letter dated May 5, 1995 giving Chameleon authority to relocate KIOX upon the provision that an application to make the site a permanently licensed site would be forthcoming. It had always been Chameleon's intent to make the site permanent with a power of 2,500 watts and work on the engineering for the new operation immediately after the new site went on the air.

On April 28, 1995, Salem finally communicated with KENR Management Company concerning its April 6th termination letter. During that conversation, Mr. Clark indicated that Salem wanted to "make certain your clients are taken care of." This statement was a clear indication that Salem's only reason for sending the unofficial termination letter was that it wanted to raid KENR Management's client base.

Mr. Werlinger responded to Mr. Clark that KENR Management did not regard Salem's letter as proper notice under terms of the contract. Mr. Clark disagreed, stating that Mr. Werlinger was simply engaging in "semantics." Mr. Werlinger, anticipating that Salem would disregard his position and terminate on May 6th, decided to send his own termination letter effective May 31st. He informed Mr. Clark that KENR Management Company had decided to terminate the contract as of May 31, 1995 and that Salem would receive proper notice at its Camarillo, California offices on Monday, May 1, 1995. Mr. Clark said Mr. Werlinger would be hearing from his company immediately. Mr. Werlinger indicated he regarded KENR's notice of termination as of May 31st both legal and proper under the terms of the contract and he planned to continue to program through the end of May.

On Monday, May 1, 1995, notice was received at the Salem offices in California informing the company of KENR Management's termination of the contract; however, KENR Management Company did not receive any communication from Salem until Thursday, May 4th when a KENR Management employee indicated to a KENR Management employee that it had been solicited by Salem for program time on KENR commencing on Monday, May 7th. The programmer indicated Salem had told them KENR Management would be off the air as of midnight, Saturday, May 6th. Mr. Werlinger immediately contacted Mr. Clark by telephone and instructed him that under the terms of the LMA, Salem was engaging in an illegal activity by tampering with KENR Management Company's customers. Mr. Clark categorically denied the tampering and stated that he had talked to "none" of the programmers. He also restated Salem's intent to terminate KENR's programming at midnight, Saturday, May 6th, ignoring the fact that KENR Management Company had not received proper notice and ignoring KENR's notice to Salem for a May 31st termination.

A decision was made to legally enjoin Salem from canceling KENR Management's agreement. It was decided to ask a district court for a Temporary Restraining Order. On Friday, May 5th, in Texas State District Court, District Judge Katherine Kennedy issued a Temporary Restraining Order restraining Salem from "pulling the plug" on KENR Management until a formal hearing could be held.



At the emergency hearing on May 5th, KENR Management Company was represented by its corporate counsel Ray Fisher who had contacted Salem to notify them of the court proceeding; however, no one was at the courthouse to represent Salem. Judge Kennedy satisfied the representation requirement for Salem by personally contacting Mr. Clark by telephone and interviewing him regarding the matter. By the end of the hearing, Judge Kennedy had issued the TRO and set a hearing on the evidence for 1:30pm, Monday, May 8th.

Following the hearing, Mr. Werlinger went to the offices of Salem in Houston and met with Mr. Clark offering to "split the difference" between May 8th and May 31st (22 days). Mr. Werlinger offered to take 11 days and surrender 11 days to Salem, paying the daily rate of \$645.16 (\$12,293.06 total) for the nineteen days in May. Mr. Clark responded that Salem would be willing to accept a total payment of \$25,000.00 for the nineteen days but would be unwilling to accept anything else. Mr. Werlinger responded that KENR Management would be unwilling to pay that much and would opt to take its chances in district court on Monday, May 8th.

The same day, May 5th, the FCC issued Chameleon Radio Corporation a Special Temporary Authorization (STA) for its Harris County site, granting the requested 1,000 watts daytime and 100 watts at night (Chameleon had requested 250 watts at night) from the site.

Chameleon felt secure that it would prevail in the May 8th hearing; however, within the hour, Mr. Werlinger and staff went to work to get the 180 foot tower constructed and ready to go on the air. Working nonstop, the Chameleon crew had the tower in the air by 8:30 pm, Saturday, May 6th and a 100 watt transmitter operation ready to go on the air by noon on Sunday, May 7th. By noon on Monday, May 8th, the 1,000 watt transmitter was on the air and Chameleon Radio (formerly KENR Management Company) programmers were on the air on 1070 AM KENR and on 1270 AM KIOX (the call sign has since been changed to KFCC).

Prior to the hearing in Judge Link's Ancillary Court on Monday, May 8th, the attorney for Salem met with Mr. Werlinger and his attorney, Ray Fisher and asked if there was a compromise which could be reached in order to forego the hearing. Mr. Werlinger responded that his offer of Friday, May 5th remained and offered to split the 22 days. After further discussion, Salem's attorney responded that Salem would be willing to accept the offer, but under the same terms as Werlinger had rejected on Friday. After another couple of rounds, Salem offered to split the 22 days for a total of \$15,000.00. After consultation with his attorney, Mr. Werlinger agreed. The two parties presented the agreement to Judge Link at approximately 2:00 pm and entered the agreement into the court records. In exchange for a total payment of \$15,000.00, Salem would allow KENR Management Company to program on KENR until midnight, Friday, May 19, 1995. Mr. Werlinger presented Mr. Clark with a check in that amount prior to leaving the courthouse.

At that point, KIOX (KFCC) was on the air and KENR Management Company programmers were programming on both 1070 kHz, and 1270 kHz. As the parties left the courthouse, Mr. Clark told Mr. Werlinger that KENR Management's Vietnamese programmer (The Voice of Vietnam) had made a decision to remain with Salem after the termination and had already dropped their dedicated broadcast line to the KENR Management Company offices and had instead, installed a broadcast line to the Salem studios on Savoy Road. As a result, Mr. Clark indicated VOVN would air its programming (2:00 pm till 6:00 pm Monday - Friday) from Salem's offices for the two weeks remaining in the agreement. Under such an arrangement, Salem would take control of the program line at 2:00 pm each day, insert the VOVN program until 6:00 pm, and then return control of the line to KENR Management Company at 6:00 pm. Inasmuch as it takes up to two weeks for the telephone company to make such a change in broadcast loops, there was no question that Salem had been tampering with KENR Management's customers prior to May 5th. VOVN had been the customer which refused to pay its airtime bill after indicating the previous week that it knew of the attempt by Salem to terminate KENR Management Company on May 6th. VOVN was only nine months into what had been a five year contract and had paid as much as \$11,800 per month for its four hour daily program; thus, the loss to KENR Management Company (Chameleon) totaled over \$120,000 per year and over \$500,000 over the remainder of the five year contract.